

Region 8 Hot Topics February 2015

COLORADO (Executive Director of the Department of Public Health and the Environment Dr. Larry Wolk/ Governor John Hickenlooper)

- **Colorado Water Plan:** The draft Colorado Water Plan, released in December 2014, incorporates a number of elements, including storage and diversions, to address a projected shortage of water, primarily for municipal needs in the Denver metro area. EPA supports the State's efforts to plan for future water supply needs. However, water projects that use federal funding and/or need a federal permit will need to describe the anticipated impacts to the environment for the public and decision makers to understand. In addition, project proponents of water supply projects may need to develop and analyze alternatives that will provide the needed water and meet the requirements of any necessary permits.
- **Colorado Nutrient Water Quality Standards Submittal:** The Region received Colorado's nutrient water quality standards submittal in June of 2012 and it is currently under review by R8 and HQ. R8 expects to complete action in spring of 2015.
- **Oil and Gas Projects in Northwestern Colorado:** New and existing oil and gas projects are prevalent across much of Northwestern Colorado. EPA is working closely with State and Federal agency partners to understand and prevent impacts to the region's air and water resources while developing these energy resources.
- **BLM – Previously Issued Leases in Colorado EIS:** This EIS is re-analyzing 65 existing leases issued since 1993 in the White River National Forest (due to a 2007 Interior Board of Land Appeals decision that NEPA analysis was not completed properly prior to those leases being sold), including the 25 leases in the Thompson Divide area above Aspen that have been suspended through April 1, 2016. EPA is a cooperating agency. The White River National Forest (encompassing the area of the 65 existing leases) recently released their Oil and Gas Leasing FEIS, which removed 61,000 "high oil and gas potential" acres in the Thompson Divide area. Draft EIS expected late 2015. We are pleased to see the protective measures included in the White River National Forest FEIS, which proposes additional protections (no leasing) on sensitive acreage in the Thompson Divide area while allowing development in surrounding lands.

MONTANA (Director of the Department of Environmental Quality Tom Livers/ Governor Steve Bullock)

- **Bridger Poplar Pipeline Oil Spill:** On January 18th EPA received a report of 300 bbls of crude was discharged from the Bridger Poplar pipeline under the Yellowstone River near Glendive, Montana. EPA responded with an OSC and contractors to assess the situation. The river is frozen over and the oil was discharged beneath the ice, making observations and collecting samples extremely difficult. The public drinking water system in Glendive was impacted with oil entering the system. Water was provided to residents during the time the system was cleaned and flushed. Clean water is now provided to all users in the system and daily monitoring of the water intake is being done to ensure clean water is going into the system. EPA, Bridger Pipeline and the state continue to monitor conditions and recover oil from under the ice as possible and will monitor the situation through breakup of the ice. Downstream water intakes are being monitored and sampled as necessary.

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- **Billings, Montana SO2 Nonattainment Area:** The Montana Department of Environmental Quality submitted a Clean Data Determination request to EPA Region 8 on January 16, 2015 regarding the 1-hour SO2 nonattainment area in part of Billings. This area was designated nonattainment in August 2013 based on 2009-2011 monitoring data. The 2012-2014 monitoring data demonstrates the area has attained the standard. This is well in advance of the October 2018 attainment date. Region 8 anticipates proposing an attainment determination based on the state's clean data in the next couple of months.
- **Court Remand of EPA's Approval of MT's Electrical Conductivity/Sodium Adsorption Ratio (EC/SAR) Water Quality Standards:** In 2009, EPA's approval of MT's EC/SAR water quality standards was remanded to the Agency. Region 8 has been addressing the court's directives and reviewing the scientific defensibility of MT's submission. We anticipate completion of our action in FY15.
- **Nutrient Water Quality Standards Submittal:** EPA received Montana's nutrient rule submission on August 15, 2014 that included a number of provisions related to nutrients including numeric criteria for phosphorus and nitrogen for wadeable streams and multidischarger variance provisions. On December 16, 2014 EPA received a notice of intent (NOI) to sue filed by the Upper Missouri Waterkeepers under CWA § 505(b) for failure to perform the Agency's mandatory duty act on the standards within the statutory deadlines. The rulemaking package is undergoing review for Agency action to meet the NOI deadline of February 13, 2015.

NORTH DAKOTA (Chief of the Environmental Health Section, Department of Health Dave Glatt/ Governor Jack Dalrymple)

- **Blacktail Creek produced water spill:** On January 7th, Summit Midstream reported a discharge to Blacktail Creek of unknown or zero volume of produced water from a disposal pipeline. Subsequent reports raised the estimated discharge to 3,000,000 gallons of produced water, the largest spill reported in North Dakota. EPA has responded to the scene and is directing the recovery of oil from the creek associate with produced water and is providing technical assistance to the NDDOH in overseeing efforts to recover produced water. Full impacts of the spill are not known at this time due to winter conditions and ice on the creek and downstream river.
- **Regional Haze Reconsideration:** A final reconsideration rulemaking was signed by the Administrator on February 6, 2015 reaffirming our decision to approve the state of North Dakota's Regional Haze NOx Best Available Retrofit Technology (BART) determinations and emission limits for three coal-fired power units - Milton R. Young Station Units 1 and 2 and Leland Olds Station Unit 2. This rulemaking action was in response to a June 2012 Earthjustice petition to the Agency to reconsider our April 2012 decision to approve North Dakota's NOx BART determinations for selective non-catalytic reduction (SNCR).
- **Efforts to Develop Nutrient Reduction Strategy:** North Dakota continues to engage a diverse group of stakeholders to develop a statewide strategy to reduce nutrient pollution. Five workgroups are presently underway including: 1) Agriculture and nonpoint sources, 2) Municipal and industrial point sources, 3) Watershed prioritization, 4) Criteria development, and 5) Education and outreach.

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SOUTH DAKOTA (Department Secretary for the Department of Environment and Natural Resources Steven Priner/ Governor Dennis Daugaard)

- **Powertech's Proposed Dewey Burdock Uranium In-Situ Recovery (ISR) Site:** Later this year, the Region anticipates issuing draft Class III and V injection well area permits and a proposed aquifer exemption for uranium ISR activities at this site in southwestern South Dakota. There will be a 60 day public comment period and at least two public hearings held locally. These will be the first EPA-issued UIC permits for uranium ISR, nationwide. Powertech is also awaiting final decisions by the NRC's Atomic Safety Licensing Board and the SD DENR's water rights, large scale mining and groundwater discharge permitting programs.

UTAH (Executive Director of the Department of Environmental Quality Amanda Smith/ Governor Gary Herbert)

- **Tier 3 Fuel:** Utah is very interested in early adoption of the Tier 3 fuel standards in the Salt Lake 5-county and Utah County PM2.5 non-attainment areas. Utah included language in its October 2014 proposed moderate area SIPs for the non-attainment areas that would enable area refineries to make changes in order to produce Tier 3 compliant fuel by obtaining permits for minor modifications. EPA recently released technical amendments to the Tier 3 rule that involve a wide range of corrections and minor adjustments to the regulations for different mobile source categories, but the amendments do not have a significant impact on Utah's interest in early adoption of Tier 3 fuels. EPA will continue to collaborate with Utah on addressing the moderate area SIP requirements for area refineries that intend to produce Tier 3 fuel.

WYOMING (Director of the Department of Environmental Quality Todd Parfitt/ Governor Matt Mead)

- **EPA Grants to the Northern Arapaho and Eastern Shoshone Tribes on the Wind River Reservation:** In September 2014, the NAT unilaterally dissolved the Tribes' Joint Business Council (JBC), which provided management of the Tribes' joint programs and funding, including the Wind River Environmental Quality Commission (WREQC). In the absence of the JBC, EPA conditioned the award of FY 2015 grants on the Tribes agreeing on a joint management structure to ensure appropriate management of EPA funds. To date, the Tribes have not demonstrated to EPA progress toward a joint management structure. No FY 2015 EPA grant funds have been requested or disbursed to the Tribes. Through in-person meetings (most recently in late January 2015), phone calls and letters over the last 4 months, Region 8 has explained its position, assessed progress, and offered assistance to the Tribes. **(Internal information)** Region 8 is planning to send a letter to Tribes in February 2015 advising the Tribes that it will terminate 2015 funding if the Tribes do not agree on a joint management structure.
- **Statewide Use Attainability Analysis for Recreational Waters:** Wyoming developed a statewide UAA for recreation using a novel Geographic Information System (GIS) approach. Region 8 has worked closely with WDEQ and HQ for over five years while the UAA was being developed as R8's action will set a national precedent. On Dec. 8, 2014, WDEQ

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submitted the package to the EPA for action under the Clean Water Act (CWA). The Wyoming Outdoor Council (WOC) and other recreational stakeholders raised concerns regarding WDEQ's public involvement process for the UAA. The submittal is current under review in the Region.